

1 HB326
2 175381-3
3 By Representative Wood
4 RFD: State Government
5 First Read: 28-FEB-17

ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

Relating to retirement benefits; to amend Sections 16-25-14, 16-25-21, 36-27-16, and 36-27-24, Code of Alabama 1975; to allow Tier II members of the Employees' Retirement System or the Teachers' Retirement System employed as a correctional officer, firefighter, or law enforcement officer to retire with full benefits upon completion of 25 years of service; to increase the benefit multiplier used to determine retirement allowances for local firefighters and law enforcement officers, with an option for local employers participating in the Employees' Retirement System to opt out of this increase by adopting a resolution on or before September 30, 2017; and to provide that Tier II members of the Employees' Retirement System or the Teachers' Retirement System employed as a correctional officer, firefighter, or law enforcement officer to contribute eight and one-quarter percent of his or her earnable compensation to the retirement system.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 16-25-14, 16-25-21, 36-27-16 and
2 36-27-24, Code of Alabama 1975, are amended to read as
3 follows:

4 "§16-25-14.

5 "(a) (1) Any Tier I plan member who withdraws from
6 service upon or after attainment of age 60 and any Tier II
7 plan member who withdraws from service upon or after
8 attainment of age 62, or in the case of a Tier II plan member
9 who is a correctional officer, firefighter, or law enforcement
10 officer as defined in Section 36-27-59, who withdraws from
11 service upon or after attainment of age 56 with at least ten
12 years of creditable service as a correctional officer,
13 firefighter, or law enforcement officer may retire upon
14 written application to the Board of Control setting forth at
15 what time, not less than 30 days nor more than 90 days
16 subsequent to the execution and filing thereof, he or she
17 desires to be retired; provided, that any such member who
18 became a member on or after October 1, 1963, shall have
19 completed 10 or more years of creditable service.

20 "(2) Any Tier I plan member who has attained age 60
21 and any Tier II plan member who has attained age 62, or in the
22 case of a Tier II plan member who is a correctional officer,
23 firefighter, or law enforcement officer as defined in Section
24 36-27-59, who has attained age 56 with at least ten years of
25 creditable service as a correctional officer, firefighter, or
26 law enforcement officer and has previously withdrawn from
27 service may retire upon written application to the Board of

1 Control setting forth at what time, not less than 30 days nor
2 more than 90 days subsequent to the execution and filing
3 thereof, he or she desires to be retired; provided, that the
4 member shall have completed at the time for his or her
5 withdrawal from service the requirements established by the
6 Board of Control for eligibility for deferred benefits
7 pursuant to Section 16-25-3.

8 "(3) Any person who is presently covered or is
9 eligible to be covered under the Employees' Retirement System
10 of Alabama or the Teachers' Retirement System of Alabama and
11 who, prior to such coverage or eligibility for coverage,
12 served as head of any Alabama county's public library service
13 department shall have credited to him or her one year of
14 creditable service for each year served as such head, not to
15 exceed 12 years; provided, that such person shall pay into the
16 retirement system the employee's part of the cost or
17 contribution based on the salary paid to such person during
18 the time of his or her service in the above capacity, with
19 such cost or contribution to be calculated at the percent or
20 rate in effect on October 1, 1973.

21 "(4) Any Tier I plan member of the Teachers'
22 Retirement System of Alabama, who withdraws from service after
23 the completion of at least 25 years of creditable service, may
24 retire upon written application to the Board of Control of the
25 Teachers' Retirement System setting forth at what time, not
26 less than 30 days nor more than 90 days subsequent to the
27 execution and filing thereof, he or she desires to be retired;

1 provided, that any such member who became a Tier I plan member
2 on or after October 1, 1963 shall have completed 10 or more
3 years of creditable service.

4 "(5) Any Tier II plan member of the Teachers'
5 Retirement System of Alabama employed as a correctional
6 officer, firefighter, or law enforcement officer, as defined
7 in Section 36-27-59, who withdraws from service after
8 completion of not less than 25 years of creditable service as
9 a correctional officer, firefighter, or law enforcement
10 officer, may retire without a reduction in retirement
11 allowance upon written application to the Board of Control of
12 the Teachers' Retirement System setting forth the first day of
13 which month, not less than 30 days nor more than 90 days
14 subsequent to the execution and filing thereof, he or she
15 desires to be retired.

16 "(b) Upon retirement from service, a Tier I plan
17 member shall receive a service retirement allowance which
18 shall consist of:

19 "(1) An annuity which shall be the actuarial
20 equivalent of his or her accumulated contributions at the time
21 of his or her retirement;

22 "(2) A pension which shall be equal to the annuity
23 allowable at the age of retirement, but not to exceed an
24 annuity allowable at age 65 computed on the basis of
25 contributions made prior to the attainment of age 65; and

26 "(3) If he or she has a prior service certificate in
27 full force and effect, an additional pension which shall be

1 equal to the annuity which would have been provided at age of
2 retirement, but not to exceed an annuity allowable at age 65
3 by twice the contributions which he or she would have made
4 during the period of prior service with which he or she is
5 credited had the system been in operation and had he or she
6 contributed thereunder. In lieu of a determination of the
7 actual compensation of the members that was received during
8 such prior service, the Board of Control may use for the
9 purposes of this chapter the compensation rates which, if they
10 had progressed with the rates of salary increase shown in the
11 tables as prescribed in subsection (o) of Section 16-25-19,
12 would have resulted in the same average salary of the member
13 for the five years immediately preceding the date of
14 establishment as the records show the member actually
15 received.

16 "(c) The annual service retirement pension payable
17 to a Tier I plan member retiring on or after October 1, 1975,
18 shall not be less than an amount which when added to his or
19 her annuity is equal to the greater of the following two
20 amounts:

21 "(1) Two and one-eightieth percent of the member's
22 average final compensation multiplied by the number of years
23 of his or her creditable service; or

24 "(2) If he or she became a member before October 1,
25 1971, \$72 multiplied by the number of years of his or her
26 creditable service not in excess of 25 years.

1 "Notwithstanding, a member who retired prior to
2 October 1, 1971, under service retirement shall receive \$120
3 multiplied by the number of years of his or her creditable
4 service not in excess of 25 years.

5 "(d) Upon retirement from service, a Tier II plan
6 member shall receive a service retirement allowance which
7 shall consist of an annuity which shall be the actuarial
8 equivalent of the member's accumulated contributions at the
9 time of retirement and a pension which, when added to the
10 member's annuity, shall be equal to one and sixty-five
11 hundredths percent (1.65%) of the member's average final
12 compensation multiplied by the number of years of creditable
13 service. Notwithstanding the foregoing, the service retirement
14 allowance shall not exceed eighty percent (80%) of the
15 member's average final compensation.

16 "(e) Upon the application of a Tier I plan member in
17 service or of his or her employer, any member who has had 10
18 or more years of creditable service may be retired by the
19 Board of Control on a disability retirement allowance not less
20 than 30 nor more than 90 days next following the date of
21 filing such an application; provided, that the medical board,
22 after a medical examination of such member, shall certify that
23 such member is mentally or physically incapacitated for
24 further performance of duty, that such incapacity is likely to
25 be permanent, and that such member should be retired. Upon the
26 application of a Tier II plan member in service or of his or
27 her employer, any member who has had 10 or more years of

1 creditable service may be retired by the Board of Control on a
2 disability retirement allowance not less than 30 nor more than
3 90 days next following the date of filing such an application;
4 provided, that the medical board, after a medical examination
5 of such member, shall certify that the member is totally and
6 permanently mentally or physically incapacitated from regular
7 and substantial gainful employment, and that such member
8 should be retired.

9 "(f) Upon retirement for disability, a Tier I plan
10 member shall receive a service retirement allowance if he or
11 she has attained age 60 or if any law or part of any law
12 pertaining to retirement under the Teachers' Retirement System
13 of Alabama provides for service retirement after the
14 completion of 25 years of creditable service and the member
15 has completed 25 years of creditable service; otherwise, he or
16 she shall receive a disability retirement allowance which
17 shall consist of:

18 "(1) An annuity which shall be the actuarial
19 equivalent of his or her accumulated contributions at the time
20 of retirement; and

21 "(2) A pension which shall be equal to the pension
22 that would have been payable under subdivisions (2) and (3) of
23 subsection (b) of this section upon service retirement at age
24 60 had the member continued in service to that age without
25 change in compensation.

1 "The annual disability retirement pension shall not
2 be less than an amount which when added to his or her annuity
3 is equal to the greater of the following amounts:

4 "a. Two and one-eightieth percent of the member's
5 average final compensation multiplied by the number of years
6 of creditable service.

7 "b. If he or she became a member before October 1,
8 1971, \$54 multiplied by the number of years of his or her
9 creditable service not in excess of 25 years.

10 "Notwithstanding, a member who retired prior to
11 October 1, 1971, for disability shall receive \$90 multiplied
12 by the number of years of his or her creditable service not in
13 excess of 25 years.

14 "(g) Upon retirement for disability, a Tier II plan
15 member shall receive a service retirement allowance if the
16 member has attained age 62, or in the case of a Tier II plan
17 member who is a correctional officer, firefighter, or law
18 enforcement officer as defined in Section 36-27-59, if the
19 member has attained age 56 with at least ten years of
20 creditable service as a correctional officer, firefighter, or
21 law enforcement officer, otherwise, the member shall receive a
22 disability retirement allowance which shall be equal to one
23 and sixty-five hundredths percent (1.65%) of the member's
24 average final compensation multiplied by the number of years
25 of creditable service.

26 "(h) (1) Once each year during the first five years
27 following the retirement of a member on a disability

1 retirement allowance and once in every three-year period
2 thereafter, the Board of Control may and upon his or her
3 application shall require any disability beneficiary who has
4 not yet attained age 60 for a Tier I plan member or age 62 for
5 a Tier II plan member to undergo a medical examination, such
6 examination to be made at the place of residence of such
7 beneficiary or other place mutually agreed upon by a physician
8 of or designated by the medical board. Should any disability
9 beneficiary who has not yet attained age 60 for a Tier I plan
10 member or age 62 for a Tier II plan member refuse to submit to
11 such medical examination, his or her pension may be
12 discontinued until his or her withdrawal of such refusal, and
13 should his refusal continue for one year, all his or her
14 rights in and to his or her pension may be revoked by the
15 Board of Control; provided, that these requirements relative
16 to the medical examination shall not apply in the case of a
17 Tier II plan member who is a correctional officer,
18 firefighter, or law enforcement officer as defined in Section
19 36-27-59 retired for disability and who has attained age 56
20 with at least ten years of creditable service as a
21 correctional officer, firefighter, or law enforcement officer.

22 "(2) Should the medical board report and certify to
23 the Board of Control that a disability beneficiary who is a
24 Tier I plan member is engaged in or is able to engage in a
25 gainful occupation paying more than the difference between his
26 or her retirement allowance and his average final compensation
27 and should the Board of Control concur in such report, then

1 the amount of his or her pension shall be reduced to an amount
2 which, together with his or her annuity and the amount
3 earnable by him or her, shall equal the amount of his or her
4 average final compensation. Should his or her earning capacity
5 be later changed, the amount of his or her pension may be
6 further modified; provided, that the new pension shall not
7 exceed the amount of the pension originally granted nor an
8 amount which, when added to the amount earnable by the
9 beneficiary together with his or her annuity, equals the
10 amount of his or her average final compensation.

11 "(3) Should the medical board report and certify to
12 the Board of Control that a disability beneficiary who is a
13 Tier II plan member has the capacity to engage in regular and
14 substantial gainful employment, the Board of Control shall
15 discontinue the beneficiary's retirement allowance until the
16 beneficiary is otherwise eligible for service retirement.

17 "(i) (1) Should a member cease to be a teacher,
18 except by death or by retirement under the provisions of this
19 chapter, the contributions standing to the credit of his or
20 her individual account in the Annuity Savings Fund shall be
21 paid to him or her upon demand, and in addition to such
22 payment there shall be paid five-tenths of the interest
23 accumulations standing to the credit of his or her individual
24 account if he or she shall have not less than three but less
25 than 16 years of membership service, six-tenths of such
26 interest accumulations if he or she shall have not less than
27 16 but less than 21 years of membership service, seven-tenths

1 of such interest accumulations if he or she shall have not
2 less than 21 but less than 26 years of membership service, and
3 eight-tenths of such interest accumulations if he or she shall
4 have not less than 26 years of membership service.

5 "(2) In case of the death of a member eligible for
6 service retirement pursuant to subsection (a) of this section,
7 an allowance shall be paid to the surviving spouse, or to such
8 other person who the member shall have designated, in an
9 amount that would have been payable if the member had retired
10 immediately prior to his or her death and had elected Option
11 3, as set forth in subsection (j) of this section or,
12 alternatively, if the surviving spouse or other designee
13 desires, he or she may choose to receive, in lieu of the
14 allowance provided under Option 3, the accumulated
15 contributions of the member plus an amount equal to the
16 accumulated contributions of the member not to exceed \$5,000
17 or the accumulated contributions of the member plus the
18 benefit provided by Section 36-27B-3 if a benefit is payable
19 under such section.

20 "(3) Upon the death of a member on account of whom
21 no survivor allowance is payable under subdivision (2) of this
22 subsection, the accumulated contributions of the member plus
23 an amount equal to the accumulated contributions not to exceed
24 \$5,000 or the accumulated contributions of the member plus the
25 benefit provided by Section 36-27B-3 if a benefit is payable
26 under such section shall be paid to his or her estate or to

1 such person as he shall have nominated by written designation
2 duly executed and filed with the Board of Control.

3 "(j) With the provision the election of an option
4 shall be effective on the effective date of retirement, any
5 member may elect prior to retirement to receive, in lieu of
6 his or her retirement allowance payable throughout life, the
7 actuarial equivalent at that time of his or her retirement
8 allowance in a reduced retirement allowance payable throughout
9 life with the provision that:

10 "(1) OPTION 1. If he or she dies before he or she
11 has received in annuity payments the present value of his or
12 her annuity as it was at the time of his or her retirement,
13 the balance shall be paid to his or her legal representatives
14 or to such person as he or she shall nominate by written
15 designation duly acknowledged and filed with the Board of
16 Control;

17 "(2) OPTION 2. Upon his or her death, his or her
18 reduced retirement allowance shall be continued throughout the
19 life of and paid to such person as he or she shall nominate by
20 written designation duly acknowledged and filed with the Board
21 of Control at the time of his or her retirement;

22 "(3) OPTION 3. Upon his or her death, one half of
23 his or her reduced retirement allowance shall be continued
24 throughout the life of and paid to such person as he or she
25 shall nominate by written designation duly acknowledged and
26 filed with the Board of Control at the time of his or her
27 retirement; or

1 "(4) OPTION 4. Some other benefit or benefits shall
2 be paid either to the member or to such person or persons as
3 he or she shall nominate; provided, that such other benefit or
4 benefits, together with the reduced retirement allowance,
5 shall be certified by the actuary to be of equivalent
6 actuarial value to his or her retirement allowance and shall
7 be approved by the Board of Control.

8 "(k) Should any beneficiary be restored to active
9 service, his or her retirement allowance shall be suspended
10 until he or she again withdraws from service and, he or she
11 shall not again become a member, nor shall he or she make
12 contributions; except, that should such beneficiary who has
13 been restored to active service continue in service for a
14 period of two or more years from the date of his or her
15 reentry into active service, he or she may request the Board
16 of Control to allow him or her to again become a member of the
17 retirement system. The Board of Control may grant the request
18 for restoration to membership; provided, that such beneficiary
19 whose retirement allowance has been suspended shall repay to
20 the system all moneys received by him or her as benefits
21 during any period subsequent to the date of his or her reentry
22 into active service; provided further, that he or she shall
23 make a contribution equal to the amount he or she would have
24 contributed had he or she been a member during the period of
25 his or her restoration to active service on a suspended
26 allowance basis, together with the interest which would have

1 been credited to the contributions on account of such period
2 of restoration up to the date such contribution is made.

3 "(1) (1) All retirement allowance payments due on or
4 after October 1, 1975, to members who retired prior to October
5 1, 1975, shall be redetermined as if the provisions of
6 subsections (b) and (e) of this section which became effective
7 on said date were in effect at the time the member retired;
8 provided, that the annual retirement allowance of any member
9 who retired on or before January 1, 1956, shall be not less
10 than \$132 multiplied by the number of years of his or her
11 creditable service not in excess of 30 years in the case of
12 service retirement or \$99 multiplied by the number of years of
13 creditable service not in excess of 30 years in the case of
14 disability retirements. Any increase provided in the
15 retirement allowance payment under this subsection for a
16 member who retired under the provisions of any optional
17 benefit elected pursuant to subsection (j) of this section
18 shall accrue only to the retired member, and no person
19 designated to receive any payments after the death of a
20 retired member under the provisions of any such optional
21 benefit shall receive any increase in such payments under this
22 subsection.

23 "(2) Any person who served at least 30 years as a
24 teacher in the public schools of Alabama and was never a
25 member of the system and who, prior to October 1, 1963, was in
26 receipt of a benefit for old age assistance pursuant to
27 subsections (1) and (2) of Section 1 of Act 116, approved

1 August 24, 1959, shall be entitled to receive an annual
2 retirement allowance of \$3,960 from the system, effective as
3 of October 1, 1973.

4 "(3) Prior to October 31, 1975 any beneficiary may
5 elect to leave on deposit with the system all or a specified
6 part of any increase in his or her monthly retirement
7 allowance payments arising in accordance with subdivision (1)
8 or (2) of this subsection. The portion of each monthly payment
9 left in the system in accordance with such election shall be
10 credited, together with regular interest thereon, to the
11 individual account of such beneficiary. Upon the death of such
12 beneficiary, the total amount standing to his or her credit,
13 including regular interest to the date of death, shall be paid
14 in a lump sum to his or her legal representative or to such
15 person as he or she shall have nominated by written
16 designation duly acknowledged and filed with the Board of
17 Control.

18 "(m) Notwithstanding any other provisions of this
19 section to the contrary, when a designated beneficiary for a
20 member predeceases the member who is receiving a monthly
21 benefit allowance provided under Option 2, 3, or 4, the member
22 may designate a replacement beneficiary for the deceased
23 beneficiary to become effective two years after the date of
24 designation of the replacement beneficiary and an actuarial
25 adjustment in the monthly benefit allowance of the member to
26 cover any cost associated with designating a replacement
27 beneficiary shall be reflected thereafter in the monthly

1 benefit allowance received by the member, commencing with the
2 first benefit allowance check received by the member following
3 the date of designation of the replacement beneficiary.

4 "(n) Notwithstanding any provision of this section
5 to the contrary, if a retired member who is receiving a
6 monthly benefit allowance provided under Option 2, 3, or 4
7 divorces his or her designated beneficiary, the member may
8 designate a replacement beneficiary for the beneficiary to
9 become effective two years after the date of designation of
10 the replacement beneficiary and an actuarial adjustment in the
11 monthly benefit allowance of the member to cover any cost
12 associated with designating a replacement beneficiary shall be
13 reflected thereafter in the monthly benefit allowance received
14 by the member, commencing with the first benefit allowance
15 check received by the member following the date of designation
16 of the replacement beneficiary.

17 "(o) Any future act to increase the retirement age
18 for Tier II plan members above the age of 62 shall require a
19 two-thirds vote of the elected membership of each house of the
20 Legislature.

21 "§16-25-21.

22 "Effective October 1, 1997, all the assets of the
23 retirement system shall be credited according to the purpose
24 for which they are held among three funds, namely: The Annuity
25 Savings Fund, the Pension Accumulation Fund, and the Expense
26 Fund. The operation of the former Pension Reserve Fund and the
27 Annuity Reserve Fund shall be discontinued as of such date,

1 the balance of the former Pension Reserve Fund shall be
2 transferred to the Pension Accumulation Fund, and the balance
3 of the former Annuity Reserve Fund shall be transferred to the
4 Pension Accumulation Fund.

5 "(1) The Annuity Savings Fund shall be a fund in
6 which shall be accumulated contributions from the compensation
7 of members to provide for their annuities. Contributions to
8 and payments from the Annuity Savings Fund shall be made as
9 follows:

10 "a. Each employer shall cause to be deducted from
11 the salary of each member on each and every payroll of such
12 employer for each and every payroll period five percent of his
13 or her earnable compensation. For all pay dates beginning on
14 or after October 1, 2011, each employer shall cause to be
15 deducted from the salary of each member on each and every
16 payroll of such employer for each and every payroll period
17 seven and one-quarter percent (7.25%) of his or her earnable
18 compensation. For all pay dates beginning on or after October
19 1, 2012, each employer shall cause to be deducted from the
20 salary of each Tier I plan member on each and every payroll of
21 such employer for each and every payroll period seven and
22 one-half percent (7.5%) of his or her earnable compensation.
23 For all pay dates beginning on or after January 1, 2013, each
24 employer shall cause to be deducted from the salary of each
25 Tier II plan member on each and every payroll period six
26 percent (6%) of his or her earnable compensation; except in
27 the case of a Tier II plan member who is a correctional

1 officer, firefighter, or law enforcement officer as defined in
2 Section 36-27-59, the rate of seven percent (7%) shall apply.
3 For all pay dates beginning on or after October 1, 2017, each
4 employer shall cause to be deducted from the salary of each
5 Tier II plan member employed as a correctional officer,
6 firefighter, or law enforcement officer as defined in Section
7 36-27-59 on each and every payroll period eight and
8 one-quarter percent (8.25%) of his or her earnable
9 compensation. In determining the amount earnable by a member
10 in a payroll period, the Board of Control may consider the
11 rate of annual compensation payable to such member on the
12 first day of the payroll period as continuing throughout such
13 payroll period, and it may omit deductions from compensation
14 for any period less than a full payroll period if a teacher
15 was not a member on the first day of the payroll period, and
16 to facilitate the making of deductions it may modify the
17 deduction required of any member by such an amount as shall
18 not exceed one tenth of one percent of the annual compensation
19 upon the basis of which such deduction is to be made.

20 "b. The deductions provided for herein shall be made
21 notwithstanding that the minimum compensation provided for by
22 law for any member shall be reduced thereby. Every member
23 shall be deemed to consent and agree to the deduction made and
24 provided for herein and shall receipt for his or her full
25 salary or compensation, and payment of salary or compensation
26 less such deduction shall be a full and complete discharge and
27 acquittance of all claims and demands whatsoever for the

1 service rendered by such person during the period covered by
2 such payment, except as to the benefits provided under this
3 chapter. The employer shall certify to the Board of Control on
4 each and every payroll or in such other manner as the board
5 may prescribe the amount to be deducted; and each of the
6 amounts shall be deducted, and when deducted shall be paid
7 into the Annuity Savings Fund and shall be credited, together
8 with regular interest thereon, to the individual account of
9 the member from whose compensation the deduction was made.

10 "c. In addition to the contributions deducted from
11 compensation as hereinbefore provided, subject to the approval
12 of the Board of Control, any member may deposit in the Annuity
13 Savings Fund by a single payment or by an increased rate of
14 contribution an amount computed to be sufficient to purchase
15 an additional annuity which, together with his or her
16 prospective retirement allowance, will provide for him or her
17 a total retirement allowance not to exceed one half of his or
18 her average final compensation at age 60. Such additional
19 amounts so deposited shall become a part of his or her
20 accumulated contributions except in the case of retirement,
21 when they shall be treated as excess contributions returnable
22 to the member in cash or as an annuity of equivalent actuarial
23 value and shall not be considered in computing his or her
24 pension. The contributions and interest credits of a member
25 withdrawn by him or her, or paid to his or her estate or to
26 his or her designated beneficiary in event of his or her
27 death, shall be paid from the Annuity Savings Fund. Should a

1 member cease to be a member other than by retirement under the
2 provisions of this title, an amount equivalent to the
3 difference, if any, between his or her accumulated
4 contributions and the amount then paid shall be transferred to
5 the Expense Fund. Upon the retirement of a member or the death
6 of an eligible member where an allowance to the surviving
7 spouse is payable, his or her accumulated contributions shall
8 be transferred from the Annuity Savings Fund to the Pension
9 Accumulation Fund.

10 "d. Notwithstanding the preceding provisions, no
11 deductions shall be made from any member's salary on account
12 of which the employer's contribution is in default.

13 "(2) The Pension Accumulation Fund shall be the fund
14 in which shall be accumulated all reserves, other than amounts
15 held in the Annuity Savings Fund for the payment of all
16 pensions and other benefits. Contributions to and payments
17 from the Pension Accumulation Fund shall be made as follows:

18 "a. On account of each member there shall be paid
19 monthly by the employer an amount equal to a certain
20 percentage of the earnable compensation of each member to be
21 known as the "normal contribution" and an additional amount
22 equal to a percentage of his or her earnable compensation to
23 be known as the "accrued liability contribution," and these
24 two amounts shall be paid monthly into the Pension
25 Accumulation Fund. The Teachers' Retirement System shall
26 recommend to the Legislature on or before the first
27 legislative day of each regular session of the Legislature the

1 rate for the following fiscal year. The Legislature shall set
2 the rate in the annual appropriation bill.

3 "b. On the basis of regular interest and of such
4 mortality and other tables as shall be adopted by the Board of
5 Control, the actuary engaged by the board to make such
6 valuation required by this title shall, immediately after
7 making such valuation, determine the uniform and constant
8 percentage of the earnable compensation of the average new
9 entrant which, if contributed on the basis of his or her
10 compensation throughout his or her entire period of active
11 service, would be sufficient to provide for the payment of any
12 pension payable on his or her account. The rate per centum so
13 determined shall be known as the "normal contribution" rate.
14 The normal contribution rate shall be determined by the
15 actuary after each valuation.

16 "c.1. The accrued liability contribution rate shall
17 be computed by the actuary on the basis of each valuation as
18 the per centum rate of the total annual compensation of all
19 members which is sufficient to liquidate the unfunded accrued
20 liability over a period to be determined by the Board of
21 Control which shall be not less than 10 nor more than 30
22 years.

23 "2. The unfunded accrued liability shall be computed
24 by the actuary as the total liabilities of the system which
25 are not dischargeable by the assets of the Annuity Savings
26 Fund and the Pension Accumulation Fund and the present value
27 of the aforesaid normal contributions. For purposes of

1 computing the unfunded accrued liability the assets shall be
2 determined as follows:

3 "On June 30, 1997, the assets shall be determined by
4 using the market value of such assets. For subsequent years
5 the value of the assets shall be determined by the system's
6 actuary using a five year smoothed market value.

7 "d. The total amount payable in each year to the
8 Pension Accumulation Fund shall be not less than the sum of
9 the per centum rates known as the normal contribution rate and
10 the accrued liability contribution rate of the total
11 compensation earnable by all members during the year.

12 "e. All interest and dividends earned on the funds
13 of the retirement system shall be credited to the Pension
14 Accumulation Fund. The amounts needed to allow regular
15 interest on the reserves in the Annuity Savings Fund shall be
16 transferred in accordance with the provisions of this chapter
17 from the Pension Accumulation Fund. The Board of Control, in
18 its discretion, may transfer to and from the Pension
19 Accumulation Fund the amount of any surplus or deficit which
20 may develop in the Annuity Savings Fund or the Expense Fund.

21 "f. Upon the death of a member on account of whom no
22 survivor allowance is payable under subdivision (2) of
23 subsection (i) of Section 16-25-14, the death benefit as
24 provided in subdivision 2 of subsection (i) of such section
25 equal to the accumulated contributions not to exceed \$5,000
26 shall be payable from the Pension Accumulation Fund.

1 "(3) The Expense Fund shall be the fund from which
2 the expenses of the administration of the retirement system
3 shall be paid, exclusive of amounts payable as retirement
4 allowances and as other benefits provided herein. Any amounts
5 credited to the accounts of members withdrawing before
6 retirement and not returnable under the provisions of
7 subsection (i) of Section 16-25-14 shall be credited to the
8 Expense Fund. Any additional contributions required to meet
9 the expenses of the retirement system shall be made as
10 provided in paragraphs c., d., and e. of subdivision (4) of
11 this section.

12 "(4)a. On or before October 1 of each year, each
13 local board of education, the State Board of Education, the
14 governing boards of the University of Alabama, Auburn
15 University, and the University of Montevallo and the Executive
16 Committee of the Alabama Education Association shall file with
17 the Board of Control of the retirement system a certified
18 statement containing the following information concerning the
19 members of the retirement system employed by such boards for
20 the scholastic year beginning on July first preceding the
21 date: Name, address, monthly salary, annual salary, and such
22 other information as the Board of Control may require. On or
23 before July 31 of each year, each local board of education;
24 the State Board of Education; the governing boards of the
25 University of Alabama, Auburn University, and the University
26 of Montevallo and the Executive Committee of the Alabama
27 Education Association shall file with the Board of Control of

1 the retirement system a certified statement containing the
2 following information concerning members of the retirement
3 system employed by such boards during the scholastic year
4 ending on June 30 preceding the date: Name, address, monthly
5 salary actually paid, total annual salary actually paid, and
6 such other information as the Board of Control may require.

7 "b. The collection of members' contributions shall
8 be as follows: Each local board of education, the State Board
9 of Education, the governing boards of the University of
10 Alabama, Auburn University, and the University of Montevallo
11 and the Executive Committee of the Alabama Education
12 Association shall cause to be deducted on each and every
13 payroll period subsequent to the date of the establishment of
14 the retirement system the contributions payable by each member
15 as provided in this chapter. Each employer shall transmit
16 monthly, or at such time as the Board of Control shall
17 designate, the total amount so deducted to the
18 Secretary-Treasurer of the Board of Control accompanied by an
19 itemized statement of the contributions of each individual
20 member of the retirement system. The Secretary-Treasurer of
21 the Board of Control after making a record of all such
22 receipts shall transmit the same to the State Treasurer to be
23 held for use according to the provisions of this chapter.
24 Notwithstanding anything in this section, the Board of Control
25 may modify the form of reports required of employers and may
26 modify the method of collecting the contributions of members
27 so that employers may retain the amounts so deducted and have

1 a corresponding amount deducted from funds otherwise payable
2 to them.

3 "c. The employer's contributions shall be made from
4 the same funds used to pay salaries based on the employer cost
5 rate determined under paragraph a. of subdivision (2).

6 "d. Where member contributions are made from
7 salaries paid from federal funds, the employer shall pay from
8 federal funds to the Teachers' Retirement System the amount
9 calculated as a percentage of the salaries of those teachers
10 to be contributed by the employer in accordance with
11 subdivisions (2) and (3) of this section. Such amounts shall
12 be paid at the same time as the member contributions are made
13 to the retirement system. The provisions of this paragraph
14 shall not apply to funds received under the provisions of the
15 Hatch Act of 1887, as amended in 1955, and the
16 McIntyre-Stennis Act (Cooperative Forestry Research Act of
17 1962) of the Congress of the United States, for the support of
18 agriculturally related research.

19 "e. Where member contributions are made from
20 salaries paid by the Alabama Education Association, the
21 Alabama Education Association shall pay the employer costs
22 calculated as a percentage of the salaries of those employees
23 to be contributed as employer in accordance with subdivisions
24 (2) and (3) of this section. Such amounts shall be paid
25 monthly and at the same time as the member contributions are
26 made to the Teachers' Retirement System.

1 "f. To the extent that employer cost is collected
2 for any increase in benefits payable to retired employees of
3 local boards of education and state institutions of higher
4 education who are retired under the Employees' Retirement
5 System, there shall be a transfer of funds from these funds to
6 the Employees' Retirement System for each year such benefits
7 are payable.

8 "g. Employer cost provided for in this article
9 together with member contributions required under this article
10 shall be paid to the Teachers' Retirement System on the first
11 day of the month following the month in which the related
12 member salary is earned. Delinquent accounts shall accrue
13 interest at the actuarial assumed investment rate beginning 30
14 days after the original due date. The member contributions for
15 each member shall be reported to the Teachers' Retirement
16 System in a format prescribed by the Teachers' Retirement
17 System.

18 "§36-27-16.

19 "(a) (1) RETIREMENT, ETC., OF EMPLOYEES GENERALLY;
20 ELIGIBILITY FOR SERVICE RETIREMENT BENEFITS.

21 "a. Any Tier I plan member who withdraws from
22 service upon or after attainment of age 60 and any Tier II
23 plan member who withdraws from service upon or after
24 attainment of age 62 may retire upon written application to
25 the Board of Control setting forth at what time, not less than
26 30 days nor more than 90 days subsequent to the execution and
27 filing thereof, he or she desires to be retired; provided,

1 that any such member who became a member on or after October
2 1, 1963, shall have completed 10 or more years of creditable
3 service; provided further, that a Tier I plan member employed
4 as a state policeman shall be eligible to file application for
5 service retirement upon attaining age 52 and a Tier II plan
6 member employed as a state policeman or employed as a
7 correctional officer, firefighter, or law enforcement officer
8 as defined in Section 36-27-59 with at least ten years of
9 creditable service as a correctional officer, firefighter, or
10 law enforcement officer shall be eligible to file application
11 for service retirement upon attaining age 56.

12 "b. Any Tier I plan member who has attained age 60,
13 or age 52 in the case of a state policeman and any Tier II
14 plan member who has attained age 62, or age 56 in the case of
15 a state policeman or in the case of a correctional officer,
16 firefighter, or law enforcement officer as defined in Section
17 36-27-59 who has at least ten years of creditable service as
18 a correctional officer, firefighter, or law enforcement
19 officer, and has previously withdrawn from service may retire
20 upon written application to the Board of Control setting forth
21 at what time, not less than 30 days nor more than 90 days
22 subsequent to the execution and filing thereof, he or she
23 desires to be retired; provided, the member shall have at the
24 time of his or her withdrawal from service completed the age
25 and service requirements established by the Board of Control
26 for eligibility for deferred benefits; provided, that such

1 minimum number of years of creditable service shall not be
2 less than 10 years nor more than 25 years.

3 "c. In addition to any law or part of law relating
4 to service retirement under the Employees' Retirement System
5 of Alabama, any Tier I plan member of the Employees'
6 Retirement System who withdraws from service after completion
7 of not less than 25 years of creditable service may retire
8 without a reduction in retirement allowance upon written
9 application to the Board of Control of the Employees'
10 Retirement System setting forth the first day of which month,
11 not less than 30 days or more than 90 days subsequent to the
12 execution and filing thereof, he or she desires to be retired,
13 provided that no person whose employer participates in the
14 Employees' Retirement System under Section 36-27-6 shall be
15 entitled to the benefits provided in this paragraph unless
16 such employer elects to come under the provisions of the
17 paragraph. Any employer making such election must bear the
18 cost of such benefit.

19 "d. Any Tier II plan member employed as a
20 correctional officer, firefighter, or law enforcement officer
21 as defined in Section 36-27-59, who withdraws from service
22 after completion of not less than 25 years of creditable
23 service as a correctional officer, firefighter, or law
24 enforcement officer, may retire without a reduction in
25 retirement allowance upon written application to the Board of
26 Control of the Employees' Retirement System setting forth the
27 first day of which month, not less than 30 days nor more than

1 90 days subsequent to the execution and filing thereof, he or
2 she desires to be retired.

3 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

4 "a. Upon retirement from service a Tier I plan
5 member shall receive a service retirement allowance which
6 shall consist of:

7 "1. An annuity which shall be the actuarial
8 equivalent of his or her accumulated contributions at the time
9 of his or her retirement; except, that in the case of a state
10 policeman who has completed 20 years of creditable service as
11 a state policeman who retires after age 56 but prior to age
12 60, the annuity shall be equal to the annuity that would have
13 been payable upon service retirement at age 60 had the member
14 continued in service to age 60 without change in compensation;

15 "2. A pension which shall be equal to the annuity
16 allowance at age of retirement, but not to exceed an annuity
17 allowable at age 65, computed on the basis of contributions
18 made prior to attainment of age 65; except, that in the case
19 of a state policeman who has completed 20 years of creditable
20 service as a state policeman who retires after age 56 but
21 prior to age 60, the pension shall be equal to the annuity
22 that he or she would have received had he or she contributed
23 to age 60 without change in compensation; and

24 "3. An additional pension, if he or she has a prior
25 service certificate in full force and effect, which shall be
26 equal to the annuity which would have been provided at the age
27 of retirement, but which shall not exceed an annuity allowable

1 at age 65 by twice the contributions which he or she would
2 have made during the period of prior service with which he or
3 she is credited had the system been in operation and had he or
4 she contributed thereunder; except, that in case of a state
5 policeman who has completed 20 years of creditable service as
6 a state policeman who retired after age 56 but prior to age
7 60, an additional pension, if he or she has a prior service
8 certificate in full force and effect, which shall be equal to
9 the annuity which would have been provided at age 60, but
10 which shall not exceed an annuity allowable at age 60 by twice
11 the contributions which he or she would have made during the
12 period of prior service with which he or she is credited had
13 the system been in operation and had he or she contributed
14 thereunder.

15 "b. Notwithstanding the provisions of subparagraphs
16 1, 2, and 3 of paragraph a. of this subdivision, a state
17 policeman who is a Tier I plan member and who has completed 20
18 years of service as a state policeman who retires after age 52
19 but prior to age 56 shall receive:

20 "1. An annuity which shall be equal to the annuity
21 that would have been payable had the member continued in
22 service for four years without change in compensation;

23 "2. A pension which shall be equal to the annuity
24 that he or she would have received had he or she contributed
25 for four years without change in compensation; and

26 "3. An additional pension, if he or she has a prior
27 service certificate in full force and effect, which shall be

1 equal to the annuity which would have been provided at the age
2 of retirement, but which shall not exceed an annuity allowable
3 at the age of retirement plus four years by twice the
4 contributions which he or she would have made during the
5 period of prior service with which he or she is credited had
6 the system been in operation and had he or she contributed
7 thereunder. In lieu of a determination of the actual
8 compensation of a member that was received during such prior
9 service, the Board of Control may use for the purpose of this
10 article the compensation rate which, if it had progressed with
11 the rates of salary increase shown in the tables as prescribed
12 in subsection (n) of Section 36-27-23, would have resulted in
13 the same average salary of the member for the five years
14 immediately preceding the date of establishment as the records
15 show the member actually received.

16 "c. The annual service retirement pension payable to
17 a Tier I plan member not employed as a state policeman
18 retiring on or after October 1, 1975, shall not be less than
19 an amount which, when added to his or her annuity, is equal to
20 the greater of the following two amounts:

21 "1. Two and one-eightieth percent of the member's
22 average final compensation multiplied by the number of years
23 of his or her creditable service; or

24 "2. If he or she became a member before October 1,
25 1965, \$72.00 multiplied by the number of years of his or her
26 creditable service not in excess of 25 years.

1 "d. The annual service retirement pension payable to
2 a Tier I plan member employed as a state policeman retiring on
3 or after October 1, 1975, shall not be less than an amount
4 which, when added to his or her annuity is equal to the
5 greater of the following two amounts:

6 "1. Two and seven-eighths percent of the member's
7 average final compensation multiplied by the number of years
8 of his or her creditable service. Creditable service for any
9 state policeman under the age of 56 years who has completed 20
10 years of creditable service as a state policeman shall include
11 a bonus equal to four additional years. Creditable service for
12 a state policeman 56 years or older shall include a bonus
13 equal to the years or portion thereof remaining until the
14 member reaches age 60; or

15 "2. If he or she became a member before October 1,
16 1965, \$86.40 multiplied by the number of years of his or her
17 creditable service not in excess of 25 years; provided,
18 however, that if such member has completed 20 years of
19 creditable service as a state policeman and has not attained
20 age 60 at the time of retirement, the pension shall be
21 determined as provided in this subparagraph on the basis of
22 the number of years of creditable service which he or she
23 would have had if he or she had remained in service for four
24 years, except that, in the case of those state policemen
25 retiring at age 56 or after, the number of years in
26 determining the pension shall not exceed the number of years

1 of creditable service which he or she would have had if he or
2 she had remained in service to age 60.

3 "e. Upon retirement from service, a Tier II plan
4 member who is not employed as a state policeman shall receive
5 a service retirement allowance which shall consist of an
6 annuity which shall be the actuarial equivalent of the
7 member's accumulated contributions at the time of retirement
8 and a pension which, when added to the member's annuity, shall
9 be equal to one and sixty-five hundredths percent (1.65%) of
10 the member's average final compensation multiplied by the
11 number of years of creditable service. Notwithstanding the
12 foregoing, the service retirement allowance shall not exceed
13 eighty percent (80%) of the member's average final
14 compensation.

15 "f. Upon retirement from service, a Tier II plan
16 member who is employed as a state policeman shall receive a
17 service retirement allowance which shall consist of an annuity
18 which shall be the actuarial equivalent of the member's
19 accumulated contributions at the time of retirement and a
20 pension which, when added to the member's annuity, shall be
21 equal to two and three-eighths percent (2.375%) of the
22 member's average final compensation multiplied by the member's
23 number of years of creditable service. Notwithstanding the
24 foregoing, the service retirement allowance shall not exceed
25 eighty percent (80%) of the member's average final
26 compensation.

1 "g. Anything in this article to the contrary
2 notwithstanding, in the application of the foregoing
3 provisions of this subdivision to a member whose creditable
4 service includes a period of service as a state policeman and
5 a period of service in another employment classification, the
6 benefit rates applicable to a member employed as a state
7 policeman shall apply to all creditable service as a state
8 policeman, and the benefit rates applicable to a member not
9 employed as a state policeman shall apply to all creditable
10 service, but in all other respects the pension under this
11 subdivision shall be determined on the basis of the member's
12 employment classification at the time of his or her withdrawal
13 from service.

14 "h. The annual service retirement pension payable to
15 any state employee who had attained age 60 on or before
16 October 1, 1945, who declined membership in the Employees'
17 Retirement System of Alabama in the manner prescribed in
18 Section 36-27-4 and who retires as a state employee after
19 completing a minimum of 15 years' service shall be \$72.00
20 multiplied by the number of years of his or her service not in
21 excess of 25 years.

22 "(b) (1) RETIREMENT OF DISABLED EMPLOYEES;
23 ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

24 "a. Upon application of a Tier I plan member in
25 service or of his or her employer, any member who has had 10
26 or more years of creditable service who becomes disabled may
27 be retired on a disability retirement allowance by the Board

1 of Control not less than 30 nor more than 90 days next
2 following the date of filing of such application; provided,
3 that the medical board, after a medical examination of such
4 member, shall certify that such member is mentally or
5 physically incapacitated for the further performance of duty,
6 that such incapacity is likely to be permanent and that such
7 member should be retired. Upon the application of a Tier II
8 plan member in service or his or her employer, any member who
9 has had 10 or more years of creditable service may be retired
10 by the Board of Control on a disability retirement allowance
11 not less than 30 nor more than 90 days next following the date
12 of filing such application; provided, that the medical board,
13 after a medical examination of such member, shall certify that
14 the member is totally and permanently mentally or physically
15 incapacitated from regular and substantial gainful employment,
16 and that such member should be retired.

17 "b. Without regard to the number of years of
18 creditable service, a member employed as a state policeman, a
19 municipal police officer or a deputy sheriff, or a member
20 employed as a state, municipal, or county firefighter who is
21 not covered through his or her current employer under the
22 United States Social Security Act, who as a result of his or
23 her employment, in the line of duty and not as a result of his
24 or her own misconduct, shall become permanently and totally
25 disabled to the extent that he or she cannot perform his or
26 her duties or duties of a less strenuous nature, as an
27 employee of the State of Alabama or as an employee of an

1 employer participating under the provisions of Section
2 36-27-6, shall be retired on a disability retirement
3 allowance, not less than 30 nor more than 90 days next
4 following the date of filing of such application, provided
5 that the medical board, after a medical examination of such
6 member shall certify that such member is mentally or
7 physically incapacitated for the further performance of duty,
8 that such incapacity is likely to be permanent, and that such
9 member should be retired.

10 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

11 "a. Upon retirement for disability a member shall
12 receive a service retirement allowance if he or she is a Tier
13 I plan member and he or she has attained age 60 or if he or
14 she is a Tier II plan member and he or she has attained age
15 62, or if any law or part of any law pertaining to retirement
16 under the Employees' Retirement System of Alabama provides for
17 service retirement after the completion of 25 years of
18 creditable service without a reduction in the retirement
19 allowance and the member has completed 25 years of creditable
20 service, or, in the case of a state policeman, if he or she is
21 a Tier I plan member and he or she has attained age 52 or, in
22 the case of a state policeman or a correctional officer,
23 firefighter, or law enforcement officer as defined in Section
24 36-27-59 with at least ten years of creditable service as a
25 correctional officer, firefighter, or law enforcement officer,
26 if he or she is a Tier II plan member and he or she has

1 attained age 56; otherwise, he or she shall receive a
2 disability retirement allowance which shall consist of:

3 "1. An annuity which shall be the actuarial
4 equivalent of his or her accumulated contributions at the time
5 of his or her retirement;

6 "2. A pension which shall be equal to the pension
7 that would have been payable under subparagraphs 2 and 3 of
8 paragraph a. of subdivision (2) of subsection (a) of this
9 section upon service retirement at age 65 had the member
10 continued in service to that age without change in
11 compensation.

12 "b. The annual disability retirement pension payable
13 to a Tier I plan member not employed as a state policeman
14 retiring on or after October 1, 1975, shall not be less than
15 an amount which when added to his or her annuity is equal to
16 the greatest of the following two amounts:

17 "1. Two and one-eightieth percent of the member's
18 average final compensation multiplied by the number of years
19 of creditable service.

20 "2. If he or she became a member before October 1,
21 1965, \$54.00 multiplied by the number of years of his or her
22 creditable service not in excess of 25 years.

23 "c. The annual disability retirement pension payable
24 to a Tier I plan member employed as a state policeman retiring
25 on or after October 1, 1975, shall not be less than an amount
26 which when added to his or her annuity is equal to the greater
27 of the following two amounts:

1 "1. Two and seven-eighths percent of the member's
2 average final compensation multiplied by the number of years
3 of his or her creditable service. Creditable service for any
4 state policeman under the age of 56 years who has completed 20
5 years of creditable service as a state policeman shall include
6 a bonus equal to four additional years. Creditable service for
7 a state policeman 56 years or older shall include a bonus
8 equal to the years or portion thereof remaining until the
9 member reaches age 60; or

10 "2. If he or she became a member before October 1,
11 1965, \$64.80 multiplied by the number of years of his or her
12 creditable service not in excess of 25 years.

13 "d. The annual disability retirement allowance
14 payable to a Tier II plan member not employed as a state
15 policeman shall be equal to one and sixty-five hundredths
16 percent (1.65%) of the member's average final compensation
17 multiplied by the number of years of creditable service.

18 "e. The annual disability retirement allowance
19 payable to a Tier II plan member employed as a state policeman
20 shall be equal to two and three-eighths percent (2.375%) of
21 the member's average final compensation multiplied by the
22 number of years of creditable service.

23 "f. Anything in this chapter to the contrary
24 notwithstanding in the application of the provisions of this
25 subdivision to a member whose creditable service includes a
26 period of service as a state policeman and a period of service
27 in another employment classification the benefit rates

1 applicable to a member employed as a state policeman shall
2 apply to all creditable service as a state policeman, and the
3 benefit rates applicable to a member not employed as a state
4 policeman shall apply to all other creditable service, but in
5 all other respects the pension under this subdivision shall be
6 determined on the basis of the member's employment
7 classification at the time of his or her withdrawal from
8 service.

9 "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON
10 ACCOUNT OF DISABILITY. Once each year during the first five
11 years following the retirement of a member on a disability
12 retirement allowance and once every three-year period
13 thereafter, the Board of Control may, and upon his or her
14 application shall, require any disability beneficiary who has
15 not yet attained age 60 if the beneficiary is a Tier I plan
16 member or age 62 if the beneficiary is a Tier II plan member
17 to undergo a medical examination, such examination to be made
18 at the place of residence of such beneficiary or other place
19 mutually agreed upon by a physician or physicians of or
20 designated by the medical board. Should any disability
21 beneficiary who has not yet attained age 60 if the beneficiary
22 is a Tier I plan member or age 62 if the beneficiary is a Tier
23 II plan member refuse to submit to such medical examination,
24 his or her allowance may be discontinued until his or her
25 withdrawal of such refusal, and, should his or her refusal
26 continue for one year, all his or her rights in and to his or
27 her pension may be revoked by the Board of Control; provided,

1 that these requirements relative to the medical examination
2 shall not apply in the case of a state policeman retired for
3 disability and who has attained age 52 if he or she is a Tier
4 I plan member or in the case of a state policeman or a
5 correctional officer, firefighter, or law enforcement officer
6 as defined in Section 36-27-59 with at least ten years of
7 creditable service as a correctional officer, firefighter, or
8 law enforcement officer retired for disability who has
9 attained age 56 if he or she is a Tier II plan member. Should
10 the medical board report and certify to the Board of Control
11 that a disability beneficiary who is a Tier I plan member is
12 engaged in or is able to engage in a gainful occupation paying
13 more than the difference between his or her retirement
14 allowance and his or her average final compensation and should
15 the Board of Control concur in such report, then the amount of
16 his or her pension shall be reduced to an amount which,
17 together with his or her annuity and the amount earnable by
18 him or her shall equal the amount of his or her average final
19 compensation. Should his or her earning capacity be later
20 changed, the amount of his or her pension may be further
21 modified; provided, that the new pension shall not exceed the
22 amount of the pension originally granted nor an amount which,
23 when added to the amount earnable by the beneficiary, together
24 with this annuity exceeds the amount of his or her average
25 final compensation.

26 "Should the medical board report and certify to the
27 Board of Control that a disability beneficiary who is a Tier

1 II plan member has the capacity to engage in regular and
2 substantial gainful employment, the Board of Control shall
3 discontinue the beneficiary's retirement allowance until the
4 beneficiary is otherwise eligible for service retirement.

5 "(c) Disposition of contributions and allowances
6 upon death, etc., of member.

7 "(1) Should a member cease to be an employee except
8 by death or by retirement under the provisions of this
9 article, the contributions standing to the credit of his or
10 her individual account in the Annuity Savings Fund shall be
11 paid to him or her upon demand and, in addition to such
12 payment, there shall be paid five-tenths of the interest
13 accumulations standing to the credit of his or her individual
14 account if he or she shall have not less than three but less
15 than 16 years of membership service, six-tenths of such
16 interest accumulations if he or she shall have not less than
17 16 but less than 21 years of membership service, seven-tenths
18 of such interest accumulations if he or she shall have not
19 less than 21 but less than 26 years of membership service and
20 eight-tenths of such interest accumulations if he or she shall
21 have not less than 26 years of membership service.

22 "(2) In case of the death of a member eligible for
23 service retirement pursuant to subsection (a) of this section,
24 an allowance shall be paid to the surviving spouse, or to such
25 other person who the member shall have designated, in an
26 amount that would have been payable if the member had retired
27 immediately prior to his or her death and had elected Option

1 3, as set forth in subsection (d) of this section or,
2 alternatively, if the surviving spouse or other designee
3 desires, he or she may choose to receive, in lieu of the
4 allowance provided under Option 3, the accumulated
5 contributions of the member plus an amount equal to the
6 accumulated contributions of the member not to exceed
7 \$5,000.00 or the accumulated contributions of the member plus
8 the benefit provided by Section 36-27B-3 if a benefit is
9 payable under such section;

10 "(3) In case of the death of a Tier I plan member
11 not eligible for service retirement, after completion of 25
12 years of creditable service, an allowance shall be paid to the
13 surviving spouse, or to such other person who the member shall
14 have designated, in an amount that would have been payable if
15 the member had retired for disability immediately prior to his
16 or her death and had elected Option 3 as set forth in
17 subsection (d) of this section or, alternatively, if the
18 surviving spouse or other designee desires, he or she may
19 choose to receive, in lieu of the allowance provided under
20 Option 3, the accumulated contributions of the member plus an
21 amount equal to the accumulated contributions of the member
22 not to exceed \$5,000.00 or the accumulated contributions of
23 the member plus the benefit provided by Section 36-27B-3 if a
24 benefit is payable under such section;

25 "(4) Upon the death of a member on account of whom
26 no survivor allowance is payable under subdivisions (2) or (3)
27 of this subsection, the accumulated contributions of the

1 member plus an amount equal to the accumulated contributions
2 not to exceed \$5,000 or the accumulated contributions of the
3 member plus the benefit provided by Section 36-27B-3 if a
4 benefit is payable under such section shall be paid to his or
5 her estate or to such person as he or she shall have nominated
6 by written designation duly executed and filed with the Board
7 of Control.

8 "(d) Optional allowances. With the provision that
9 the election of an option shall be effective on the effective
10 date of retirement, any member may elect prior to retirement
11 to receive, in lieu of his or her retirement allowance payable
12 throughout life, the actuarial equivalent, at that time, of
13 his or her retirement allowance in a reduced retirement
14 allowance payable throughout life with the provisions that:

15 "(1) OPTION 1. If he or she dies before he or she
16 has received in annuity payments the present value of his or
17 her annuity as it was at the time of his or her retirement,
18 the balance shall be paid to his or her legal representatives
19 or to such person as he or she shall nominate by written
20 designation duly acknowledged and filed with the Board of
21 Control;

22 "(2) OPTION 2. Upon his or her death, his or her
23 reduced retirement allowance shall be continued throughout the
24 life of and paid to such person as he or she shall nominate by
25 written designation duly acknowledged and filed with the Board
26 of Control at the time of his or her retirement;

1 "(3) OPTION 3. Upon his or her death, one half of
2 his or her reduced allowance shall be continued throughout the
3 life of and paid to such person as he or she shall nominate by
4 written designation duly acknowledged and filed with the Board
5 of Control at the time of his or her retirement; or

6 "(4) OPTION 4. Some other benefit or benefits shall
7 be paid either to the member or to such person or persons as
8 he or she shall nominate; provided, that such other benefits,
9 together with the reduced retirement allowance, shall be
10 certified by the actuary to be of equivalent actuarial value
11 to his or her retirement allowance and shall be approved by
12 the Board of Control.

13 "(e) Effect of return to active service. Should any
14 beneficiary be restored to active service, his or her
15 retirement allowance shall be suspended until he or she again
16 withdraws from service and he or she shall not again become a
17 member of the retirement system nor shall he or she make
18 contributions; except, that should such beneficiary who has
19 been restored to active service continue in service for a
20 period of two or more years from the date of his or her
21 reentry into active service, he or she may request the Board
22 of Control to allow him or her to again become a member of the
23 retirement system. The Board of Control may grant the request
24 for restoration to membership; provided, that such beneficiary
25 whose retirement allowance has been suspended shall repay to
26 the system all moneys received by him or her as benefits
27 during any periods subsequent to the date of his or her

1 reentry into active service and shall make a contribution
2 equal to the amount he or she would have contributed had he or
3 she been a member during the period of his or her restoration
4 to active service on a suspended allowance basis together with
5 the interest which would have been credited to the
6 contributions on account of such period of restoration up to
7 the date such contribution is made.

8 "(f) (1) REDETERMINATION, ETC., OF CERTAIN
9 ALLOWANCES. All retirement allowance payments due on or after
10 October 1, 1975, to members who retired prior to that date
11 shall be redetermined as if the provisions of this section in
12 effect on October 1, 1975, were in effect at the time the
13 member retired. Anything in this article to the contrary
14 notwithstanding, the annual retirement allowance of any member
15 not employed as a state policeman who retired on or before
16 January 1, 1956, shall not be less than \$79.20 multiplied by
17 the number of years of his or her creditable service not in
18 excess of 30 years in the case of service retirement of \$59.40
19 multiplied by the number of years of his or her creditable
20 service not in excess of 30 years in the case of disability
21 retirement. Any increase provided in the retirement allowance
22 payment under this subdivision for a member who retired under
23 the provisions of any optional benefit elected pursuant to
24 subsection (d) of this section shall accrue only to the
25 retired member, and no person designated to receive any
26 payments after the death of a retired member under the
27 provisions of any such optional benefit shall receive any

1 increase in such payments under this subdivision.
2 Notwithstanding, any member who retired prior to October 1,
3 1975, and who chose either Option 2 or Option 3 may elect to
4 receive a reduced allowance and to stipulate that the
5 actuarial equivalent of the increase in his or her retirement
6 allowance, which became effective on that date, be ascribed to
7 his or her designated beneficiary; provided, that such member
8 shall clearly express this intention by filing a written
9 application to the effect with the Secretary-Treasurer of the
10 Employees' Retirement System of Alabama prior to October 1,
11 1976.

12 "(2) Any person who, prior to October 1, 1963, was
13 in receipt of a benefit pursuant to Act No. 376, approved
14 November 6, 1959, but was not a member of the system at the
15 time of retirement shall not be entitled to receive an annual
16 retirement allowance from the system, effective October 1,
17 1971, as follows:

18 "a. If such person was retired on or before January
19 1, 1956, an amount equal to \$79.20 multiplied by the number of
20 years of his or her creditable service not in excess of 30
21 years.

22 "b. If such person was retired after January 1,
23 1956, an amount equal to \$72.00 multiplied by the number of
24 years of his or her creditable service not in excess of 25
25 years.

26 "(3) Prior to October 31, 1975, any beneficiary may
27 elect to leave on deposit with the system all or a specified

1 part of any increase in his or her monthly retirement
2 allowance payments arising in accordance with subdivisions (1)
3 or (2) of this subsection over the monthly allowance which he
4 or she was receiving prior to October 1, 1975. The portion of
5 each monthly payment left in the system in accordance with
6 such election shall be credited, together with regular
7 interest thereon, to the individual account of such
8 beneficiary. Upon the death of such beneficiary the total
9 amount standing to his or her credit, including regular
10 interest to the date of death, shall be paid in a lump sum to
11 his or her legal representatives or to such person as he or
12 she shall have nominated by written designation duly
13 acknowledged and filed with the Board of Control.

14 "(g) Upon retirement from service, a Tier II plan
15 member participating pursuant to Section 36-27-6 and employed
16 as a local firefighter or law enforcement officer, as defined
17 in Section 36-27-59, shall receive a retirement allowance that
18 shall consist of an annuity that shall be the actuarial
19 equivalent of the member's accumulated contributions at the
20 time of retirement and a pension that, when added to the
21 member's annuity, shall be equal to two and one-eightieth
22 percent of the member's average final compensation multiplied
23 by the number of years of creditable service employed as a
24 local firefighter or law enforcement officer. Notwithstanding
25 the foregoing, the service retirement allowance may not exceed
26 80 percent of the member's average final compensation. Any
27 employer participating pursuant to Section 36-27-6, by

1 adoption of a resolution on or before September 30, 2017, may
2 opt out of the application of this subsection. Subsection (e)
3 shall apply for those members employed as firefighters or law
4 enforcement officers with an employer who opts out of the
5 application of this subsection.

6 "~~(g)~~ (h) Notwithstanding any other provisions of
7 this section to the contrary, when a designated beneficiary
8 for a member predeceases the member who is receiving a monthly
9 benefit allowance provided under Option 2, 3, or 4, the member
10 may designate a replacement beneficiary for the deceased
11 beneficiary to become effective two years after the date of
12 designation of the replacement beneficiary and an actuarial
13 adjustment in the monthly benefit allowance of the member to
14 cover any cost associated with designating a replacement
15 beneficiary shall be reflected thereafter in the monthly
16 benefit allowance received by the member, commencing with the
17 first benefit allowance check received by the member following
18 the date of designation of the replacement beneficiary.

19 "~~(h)~~ (i) Notwithstanding any provision of this
20 section to the contrary, if a retired member who is receiving
21 a monthly benefit allowance provided under Option 2, 3, or 4
22 divorces his or her designated beneficiary, the member may
23 designate a replacement beneficiary for the beneficiary to
24 become effective two years after the date of designation of
25 the replacement beneficiary and an actuarial adjustment in the
26 monthly benefit allowance of the member to cover any cost
27 associated with designating a replacement beneficiary shall be

1 reflected thereafter in the monthly benefit allowance received
2 by the member, commencing with the first benefit allowance
3 check received by the member following the date of designation
4 of the replacement beneficiary.

5 "~~(i)~~ (j) Any future act to increase the retirement
6 age for Tier II plan members above the age of 62 shall require
7 a two-thirds vote of the elected membership of each house of
8 the Legislature.

9 "§36-27-24.

10 "(a) Effective October 1, 1997, all the assets of
11 the retirement system shall be credited according to the
12 purpose for which they are held among three funds, namely, the
13 Annuity Savings Fund, the Pension Accumulation Fund, and the
14 Expense Fund. The operation of the former Pension Reserve Fund
15 and the Annuity Reserve Fund shall be discontinued as of such
16 date and the balance of the former Pension Reserve Fund shall
17 be transferred to the Pension Accumulation Fund, and the
18 balance of the former Annuity Reserve Fund shall be
19 transferred to the Pension Accumulation Fund.

20 "(b) Annuity Savings Fund. The Annuity Savings Fund
21 shall be a fund in which shall be accumulated contributions
22 from the compensation of members to provide for their
23 annuities.

24 "Contributions to and payments from the Annuity
25 Savings Fund shall be made as follows: Effective October 1,
26 1971, each employer shall cause to be deducted from the salary
27 of each member on each and every payroll of such employer for

1 each and every payroll period five percent of his or her
2 earnable compensation; except, that in the case of a state
3 policeman, the rate of 10 percent of earnable compensation
4 shall apply, and in computing all retirement benefits it shall
5 be assumed that a seven percent rate of contribution had
6 applied with respect to service as a state policeman prior to
7 July 1, 1957. For all pay dates beginning on or after October
8 1, 2011, each employer, except those employers participating
9 pursuant to Section 36-27-6, shall cause to be deducted from
10 the salary of each member on each and every payroll of such
11 employer for each and every payroll period seven and
12 one-quarter percent (7.25%) of his or her earnable
13 compensation; except, that in the case of a state policeman,
14 the rate of ten percent (10%) of earnable compensation shall
15 apply. For all pay dates beginning on or after October 1,
16 2012, each employer, except those employers participating
17 pursuant to Section 36-27-6, shall cause to be deducted from
18 the salary of each Tier I plan member on each and every
19 payroll of such employer for each and every payroll period
20 seven and one-half percent (7.5%) of his or her earnable
21 compensation; except, that in the case of a state policeman,
22 the rate of ten percent (10%) of earnable compensation shall
23 apply. For all pay dates beginning on or after January 1,
24 2013, each employer shall cause to be deducted from the salary
25 of each Tier II plan member on each and every payroll period
26 six percent (6%) of his or her earnable compensation; except
27 that in the case of a state policeman, the rate of ten percent

1 (10%) shall apply and in the case of a correctional officer,
2 firefighter, or law enforcement officer as defined in Section
3 36-27-59, the rate of seven percent (7%) shall apply. Any
4 employer participating under Section 36-27-6, by adoption of a
5 resolution, may elect for the increases in employee
6 contributions provided by Act 2011-676 to be withheld from the
7 earnable compensation of employees of the employer. For all
8 pay dates beginning on or after October 1, 2017, each employer
9 shall cause to be deducted from the salary of each Tier II
10 plan member employed as a correctional officer, firefighter,
11 or law enforcement officer as defined in Section 36-27-59, on
12 each and every payroll period eight and one-quarter percent
13 (8.25%) of his or her earnable compensation. In determining
14 the amount earnable by a member in a payroll period, the Board
15 of Control may consider the rate of annual compensation
16 payable to such member on the first day of the payroll period
17 as continuing through such payroll period, and it may omit
18 deductions from compensation for any period less than a full
19 payroll period if an employee was not a member on the first
20 day of the payroll period, and, to facilitate the making of
21 deductions, it may modify the deductions required of any
22 member by such an amount as shall not exceed one tenth of one
23 percent of the annual compensation upon the basis of which
24 such deductions are made.

25 "The deductions provided for in this subsection
26 shall be made notwithstanding that the minimum compensation
27 provided for by law for any member shall be reduced thereby.

1 Every member shall be deemed to consent and agree to the
2 deduction made and provided for in this subsection and shall
3 receipt for his or her full salary or compensation and payment
4 of salary or compensation less such deductions shall be a full
5 and complete discharge and acquittance of all claims and
6 demands whatsoever for the services rendered by such person
7 during the period covered by such payment, except as to the
8 benefits provided under this article. The employer shall
9 certify to the Board of Control in each and every payroll or
10 in such other manner as the board may prescribe the amounts to
11 be deducted, and each of the amounts shall be deducted and,
12 when deducted, shall be paid into the Annuity Savings Fund and
13 shall be credited, together with regular interest thereon, to
14 the individual account of the member from whose compensation
15 the deduction was made.

16 "In addition to the contributions deducted from
17 compensation as provided in this subsection, subject to the
18 approval of the Board of Control, any member may deposit in
19 the Annuity Savings Fund by a single payment or by an
20 increased rate of contribution an amount computed to be
21 sufficient to purchase an additional annuity which, together
22 with his or her prospective retirement allowance, will provide
23 for him or her a total retirement allowance not to exceed one
24 half of his or her average final compensation at age 60. Such
25 additional amounts so deposited shall become a part of his or
26 her accumulated contributions, except in the case of
27 retirement, when they shall be treated as excess contributions

1 returnable to the member in cash or as an annuity of
2 equivalent actuarial value and shall not be considered in
3 computing his or her pension.

4 "The contributions and interest credits of a member
5 withdrawn by him or her or paid to his or her estate or to his
6 or her designated beneficiary in event of his or her death
7 shall be paid from the Annuity Savings Fund. Should a member
8 cease to be a member other than by retirement under the
9 provisions of this article, an amount equivalent to the
10 difference, if any, between his or her accumulated
11 contributions and the amount then paid shall be transferred to
12 the Expense Fund. Upon the retirement of a member or the death
13 of an eligible member where an allowance to a surviving spouse
14 or other designated beneficiary is payable, his or her
15 accumulated contributions shall be transferred from the
16 Annuity Savings Fund to the Pension Accumulation Fund.

17 "Notwithstanding the preceding provisions, no
18 deductions shall be made from any member's salary on account
19 of which the employer's contributions are in default.

20 "The State Personnel Board, with the approval of the
21 Governor, may provide that the state shall pick up member
22 contributions to the Employees' Retirement System of Alabama
23 as required by this subsection on behalf of all state
24 employees who participate in the Employees' Retirement System
25 by a corresponding reduction in the salary of the member, such
26 pick-up to be mandatory for all such employees, and the
27 contributions so picked up shall be treated as employer

1 contributions in determining tax treatment under the Internal
2 Revenue Code. These contributions shall be paid from the same
3 source of funds which is used in paying earnings to the
4 employee. If employee contributions are so picked up they
5 shall be treated for all other purposes of state law in the
6 same manner and to the same extent as employee contributions
7 made prior to the date picked up.

8 "(c) Pension Accumulation Fund. The Pension
9 Accumulation Fund shall be the fund in which shall be
10 accumulated all reserves other than the amounts held in the
11 Annuity Savings Fund for the payment of all pensions, all
12 allowances granted to surviving spouses or other designated
13 beneficiaries and other benefits payable from contributions
14 made by the employer and from which shall be paid all
15 pensions, all allowances granted to surviving spouses or other
16 designated beneficiaries and other benefits on account of
17 members with prior service credit.

18 "Contributions to and payments from the Pension
19 Accumulation Fund shall be made as follows: On account of each
20 member there shall be paid monthly by the employer an amount
21 equal to a certain percentage of the earnable compensation of
22 each member to be known as the "normal contribution" and an
23 additional amount equal to a percentage of his or her earnable
24 compensation to be known as the "accrued liability
25 contribution," and these two amounts shall be paid monthly
26 into the Pension Accumulation Fund; provided, that in the case
27 of a state policeman, such percentage rates of contributions

1 shall be calculated separately. The percentage rate of such
2 contributions shall be fixed for each fiscal year on the basis
3 of the liabilities of the retirement system as shown by the
4 last annual actuarial valuation, and such percentage rate as
5 established by such valuation shall take effect the following
6 October 1 and continue in effect for the fiscal year.

7 "On the basis of regular interest and of such
8 mortality and other tables as shall be adopted by the Board of
9 Control, the actuary engaged by the board to make such
10 valuation required by this article during the period over
11 which the accrued liability contribution is payable shall,
12 immediately after making such valuation, determine the uniform
13 and constant percentage of the earnable compensation of the
14 average new entrant which, if contributed on the basis of his
15 or her compensation throughout his or her entire period of
16 active service, would be sufficient to provide for the payment
17 of any pension payable on his or her account. The percentage
18 rate so determined shall be known as the "normal contribution"
19 rate. The normal rate of contributions shall be determined by
20 the actuary after each valuation.

21 "The accrued liability contribution rate shall be
22 computed by the actuary on the basis of each valuation as the
23 percentage rate of the total annual compensation of all
24 members which is sufficient to liquidate the accrued liability
25 over a period to be determined by the Board of Control which
26 shall be not less than 10 nor more than 30 years.

1 "The unfunded accrued liability shall be computed by
2 the actuary as the total liabilities of the system which are
3 not dischargeable by the assets of the Annuity Savings Fund
4 and the Pension Accumulation Fund and the present value of the
5 aforesaid normal contributions.

6 "For purposes of computing the unfunded accrued
7 liability the assets shall be determined as follows:

8 "On September 30, 1997, the assets shall be
9 determined by using the market value of such assets. For
10 subsequent years the value of the assets shall be determined
11 by the system's actuary using a five year smoothed market
12 value.

13 "The total amount payable in each year to the
14 Pension Accumulation Fund shall be not less than the sum of
15 the percentage rates known as the normal contribution rate and
16 the accrued liability contribution rate of the total
17 compensation earnable by all members during the preceding
18 year.

19 "All interest and dividends earned on the funds of
20 the retirement system shall be credited to the Pension
21 Accumulation Fund. The amounts needed to allow a regular
22 interest on the reserves in the Annuity Savings Fund shall be
23 transferred in accordance with this article from the Pension
24 Accumulation Fund. The Board of Control, in its discretion,
25 may transfer to and from the Pension Accumulation Fund the
26 amounts of any surplus or deficit which may develop in the
27 Annuity Savings Fund, or the Expense Fund.

1 "Upon the death of a member on account of whom no
2 survivor allowance is payable under subdivisions (2) and (3)
3 of subsection (c) of Section 36-27-16, the death benefit as
4 provided in subdivision (4) of subsection (c) of Section
5 36-27-16 equal to the accumulated contributions, not to exceed
6 \$5,000.00, shall be payable from the Pension Accumulation
7 Fund.

8 "(d) Expense Fund. The Expense Fund shall be the
9 fund from which the expenses of the administration of the
10 retirement system shall be paid, exclusive of amounts payable
11 as retirement allowances and as other benefits provided in
12 this chapter. In addition thereto and on account of each
13 member of the retirement system, there shall be paid monthly
14 by the employer an amount equal to a certain percentage of the
15 earnable compensation of each member for the administrative
16 expenses of the retirement system. The percentage rate of such
17 contribution shall be fixed by the Board of Control on the
18 basis of the cost exclusive of that provided by interest not
19 returnable. Any amounts credited to the accounts of the
20 members withdrawing before retirement and not returnable under
21 the provisions of subsection (c) of Section 36-27-16 shall be
22 credited to the Expense Fund.

23 "(e) Employer's contributions. For each biennium
24 beginning October 1, 1965, each employer shall pay to the
25 retirement system the rates provided in this section and
26 thereafter, at least 30 days preceding October 1 of each
27 fiscal year, the Board of Control shall certify to the chief

1 fiscal officer of each employer the percentage rates of
2 earnable compensation of the members required to be paid to
3 the retirement system in accordance with subsections (c) and
4 (d) of this section.

5 "The employer's contribution on account of the
6 membership of employees whose salaries are paid in whole or in
7 part from funds derived from federal grants shall be paid from
8 funds derived from the federal grants in accordance with
9 statutes governing the administration of the grants and in
10 proportion to salaries paid therefrom. At such time and in
11 such manner as may be required, the Board of Control shall
12 certify to each department of state receiving a federal grant
13 the amount due and payable from the grant as the employer's
14 contribution to the retirement system on account of the
15 membership of the department whose salaries are paid in whole
16 or in part from funds derived from such federal grants. The
17 fiscal agent of the department shall authorize the state
18 Comptroller to draw a warrant or warrants in payment of the
19 amount certified as due and payable from federal grants.

20 "(f) Appropriations. There is hereby appropriated
21 annually from the fund from which salaries of the employees of
22 each employer are paid the amounts sufficient to carry out the
23 provisions of this section. In the case of those departments
24 supported wholly by transfers from other state funds, there is
25 hereby appropriated from the supporting funds such additional
26 amounts as may be necessary to pay the employer contribution
27 of each department so supported in the same proportion as the

1 other state funds contribute to the support and maintenance of
2 such department.

3 "(g) Employer cost provided for in this article
4 together with member contributions required under this article
5 shall be paid to the Employees' Retirement System on the first
6 day of the month following the month in which the related
7 member salary is earned. Delinquent accounts shall accrue
8 interest at the actuarial assumed investment rate beginning 30
9 days after the original due date. The member contributions for
10 each member shall be reported to the Employees' Retirement
11 System in a format prescribed by the Employees' Retirement
12 System."

13 Section 2. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on State Government
..... 28-FEB-17

Read for the second time and placed
on the calendar..... 15-MAR-17

Read for the third time and passed
as amended..... 11-APR-17

Yeas 96, Nays 0, Abstains 0

Jeff Woodard
Clerk